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Letter Ruling 95-13: Liquidation of Corporate Trust into Corporate Parent

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November 30, 1995

You request a letter ruling on behalf of ***** (hereinafter the "Corporation"), and ***** (hereinafter the "Trust") concerning the tax consequences of the Trust's proposed statutory merger into the Corporation. The only issue presented for Massachusetts tax purposes is whether the Trust, in determining its adjusted gross income, as provided by G.L. c. 62, § 8(a), will recognize a gain on the transfer of its property to the Corporation upon effectuating its statutory merger.[\[1\]](#)

We have ruled that in determining its adjusted gross income for Massachusetts tax purposes as required by G.L. c. 62, § 8(a), the Trust will not recognize any gain on the transfer of its property to the Corporation in effectuating its statutory merger.

I. Facts

The Corporation is a Massachusetts corporation with its usual place of business located in *****, Massachusetts. The Corporation is a closely held corporation, reporting as an S corporation for both federal and Massachusetts tax purposes, with one class of issued and outstanding common stock. All of the issued and outstanding common stock is held by one family in the following proportions:

Individual 1	45%
Individual 2	45%
Individual 3	5%
Individual 4	5%

The Corporation is an operating company regularly and exclusively engaged in the business of providing parts and services relating to the repair of motor vehicles. Its principal assets consist of inventory and leasehold improvements. It operates on property owned by the Trust.

The Trust is a Massachusetts business trust, the beneficial interest of which is represented by transferable shares. For Massachusetts tax purposes, the Trust is a corporate trust, as defined by G.L. c. 62, § 1(j), and, as such, is taxable as a resident natural person pursuant to G.L. c. 62, § 8(a). For federal tax purposes, the Trust reports as an association taxable as a corporation. All of its

outstanding certificates of beneficial interests are held by one family in the following proportions:

Individual 1	48%
Individual 2	48%
Individual 3	2%
Individual 4	2%

The individuals that are holders of beneficial interests in the Trust are the same individuals that own all of the issued and outstanding common shares in the Corporation.

The Trust owns and manages property in *****, Massachusetts. The Trust leases the property in ***** to the Corporation. The property in ***** is the same property on which the corporation operates its business. The property in ***** is the Trust's principal asset, and it has a fair market value substantially in excess of basis. Also, the beneficial interests in the Trust have a fair market value substantially in excess of basis.

The Trust's only business activity is the management and leasing of the property in *****. It also holds an installment note, which represents the balance of the consideration received by the Trust from the sale of a parcel of property unrelated to the proposed transaction. The Trust sold this second parcel of property for an amount substantially in excess of basis.

Prior to the merger of the Trust and Corporation, Individuals 1 and 2 will transfer by gift a percentage of their beneficial interests in the Trust to Individuals 3 and 4 so that the interests of all Individuals in the Trust will correspond precisely to their interests in the Corporation.

The Trust proposes to merge into the Corporation pursuant to the statutory procedure for merging a business trust into a corporation under G.L. c. 156B, § 83(b). Statutory merger between a business trust and a corporation is allowed under that section only where the corporation owns at least 90% of the issued and outstanding certificates of beneficial interest of the business trust. In order to comply with this statutory requirement, the Trust and the Corporation propose to take the following steps:

1. The Trust will amend its Declaration of Trust so that it will permit a merger under G.L. c. 156B, § 83(b).
2. The beneficial owners of the Trust will contribute 100% of their beneficial interests in the Trust to the Corporation as a contribution to capital of the Corporation.
3. The Trust will be merged into the Corporation pursuant to G.L. c. 156B, § 83(b).
4. The Corporation will adopt a plan of complete liquidation of the Trust pursuant to § 332 of Code.
5. All of the Trust's assets will be distributed to the Corporation within one year of the adoption of the plan of liquidation, as required by §§ 332 and 337 of the Code.

II. Discussion

The facts of the Trust's letter ruling request are exactly like those in Letter Ruling 83 77. In Letter Ruling 83 77, the Department addressed the tax consequences of the transfer of property in complete liquidation of a corporate trust to its corporate parent in accordance with the statutory merger provisions of G.L. c. 156B, § 83. In that Letter Ruling, the Department ruled that no gain or loss would be recognized by a corporate trust on the distribution of its property to its corporate parent in complete liquidation. The Department's policy as to the tax consequences of such a transfer of property has not changed since the Department issued Letter Ruling 83 77. Thus no gain or loss shall be recognized by the Trust in connection with its complete liquidation into its corporate parent in a statutory merger under the provisions of G.L. c. 156B, § 83.

Very truly yours,

/s/Mitchell Adams

Mitchell Adams
Commissioner of Revenue

MA:HMP:jd

LR 95-13

[1] Taxpayer has requested three other rulings relating to the statutory merger of the Trust and Corporation: (1) non recognition of gain by Trust shareholders on their contribution of beneficial interests to the Corporation; (2) the non recognition of gain by the Corporation upon the effectuation of its merger with the Trust and (3) the non recognition of income by the Trust on its distribution of an installment note to the Corporation upon effectuation of its merger with the Corporation. The Massachusetts tax consequences of each transaction will depend upon a provision under the Internal Revenue Code sections 351, 332 and 453B, respectively, of the Internal Revenue Code. Assuming no gain will be recognized for federal purposes, then no gain will be recognized for Massachusetts tax purposes. See G.L. c. 62, § 2; c. 63, § 30(3).